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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,843	12/12/2003	Toshihide Shinohara	Q78446	9032

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EXAMINER

STULTZ, JESSICA T

ART UNIT PAPER NUMBER

2873

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/733,843

Applicant(s)

SHINOHARA ET AL.

Examiner

Jessica T. Stultz

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8 and 12 is/are rejected.
- 7) ☒ Claim(s) 2,7 and 9-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Comments

For applicant's information, the amendment to claim 11, filed May 9, 2005, overcomes the previous 112 first paragraph rejection of this claim.

Claim Objections

Claim 2 is objected to because of the following informalities: in claim 2, "a intermediate" should be "an intermediate". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "about" in claim 12 is a relative term which renders the claim indefinite. The term "about" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Specifically, the phrase "is about 25 mm" could mean that the length ranges between 24.9-25.1 mm, 24.5-25.5 mm, 24-26 mm, or 23-27 mm, etc. It is not clear what the term "about" provides as a limitation for the claim. For purposes of examination, it is assumed that the meaning is "ranges between 24.5-25.5 mm".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 3-6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Winthrop EP 0 384 128, herein referred to as Winthrop.

Regarding claim 1, Winthrop discloses a progressive addition power lens comprising (Page 12, lines 4-40, wherein the progressive addition lens is shown in Figures 13A-13B): a near dioptric power region, an intermediate corridor, and a far dioptric power region (Page 12, lines 4-40, wherein the lens includes a near dioptric region, an intermediate corridor and a far region, Figure 13A), each with a respective clear visual region having astigmatism of 0.5 diopters or less (Page 12, lines 4-40, wherein the interior area has astigmatism of less than 0.5 diopters, Figure 13B); wherein: the intermediate corridor extends vertically from the near dioptric power region to the far dioptric power region, with a gradually decreasing refractive power (Shown in Figures 13A-13B, wherein the intermediate corridor has gradually decreasing refractive power); a maximum horizontal width of the clear visual region in the far dioptric power region is no more than twice a minimum horizontal width of the clear visual region in the intermediate corridor (Shown in Figure 13B, wherein the maximum width of the clear region, i.e. less than 0.5 diopters of the far region is less than twice the minimum horizontal width of the intermediate region); and a vertical length of the intermediate corridor is in a range of 22 to 28 mm (Page 12, lines 4-40, wherein the reading/near center of the lens is 16 mm below the point where the horizontal intersects the lens, i.e. the eye point, and the distance/far center of the lens is 12 mm above the eye point, therefore the length of the interior corridor, i.e. the length of NP-FP is 28 mm, which falls within the claimed range); and a far point at the bottom of the far dioptric power region (Shown in Figure 13B, wherein the far point is a point at the bottom edge of the far dioptric region), but does not specifically disclose that astigmatism peaks are positioned at substantially

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the same height or vertically higher than the far point. However, it is inherent from Winthrop that the astigmatism peaks are positioned at substantially the same height or vertically higher than the far point, this being reasonably based upon the fact that the maximum astigmatism is located above the 0-180 degree line of the lens (Page 12, lines 4-29 as shown in Figure 13B) and due to the drawings showing that the maximum astigmatism is clearly located on the sides of the far region and above the mid point of the lens and therefore inherently at substantially the same height or vertically higher than the far point (Figures 13A-B).

Regarding claim 3, it is inherent from Winthrop that the clear visual region of the near dioptric power region has a horizontal width of 30 mm or more this being reasonably based upon the width of the clear visual region of the near dioptric power region being larger than the intermediate corridor (Shown in Figure 13B, wherein the width is larger than the length of the intermediate corridor, of known length, 28mm).

Regarding claims 4-6, and 8, Winthrop further discloses a far point at the bottom of the far dioptric power region (Shown in Figure 13B, wherein the far point is a point at the bottom edge of the far dioptric region); but does not specifically disclose that astigmatism peaks are positioned at substantially the same height or vertically higher than the far point. However, it is inherent from Winthrop that the astigmatism peaks are positioned at substantially the same height or vertically higher than the far point, this being reasonably based upon the fact that the maximum astigmatism is located above the 0-180 degree line of the lens (Page 12, lines 4-29 as shown in Figure 13B) and due to the drawings showing that the maximum astigmatism is clearly located on the sides of the far region and above the mid point of the lens and therefore

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inherently at substantially the same height or vertically higher than the far point (Figures 13A-B).

Allowable Subject Matter

Claim 2 is allowed.

Claims 7 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Specifically regarding independent claim 2 and claims 7, and 9-11, none of the prior art alone or in combination disclose or teach of a progressive addition lens including a near power region, a far power region, and an intermediate corridor with the disclosed dimensions and further comprising a near point at the top of the near dioptric power region and an eye point in the intermediate corridor specifically wherein the eye point is located 9 to 12 mm higher than the near point.

Specifically regarding claim 12, none of the prior art alone or in combination disclose or teach of a progressive addition lens including a near power region, a far power region, and an intermediate corridor specifically wherein the vertical length of the corridor ranges between 24.5-25.5 mm.

Response to Arguments

Applicant's arguments filed May 9, 2005 have been fully considered but they are not persuasive. Specifically applicant argues that the Winthrop reference does not disclose astigmatism peaks positioned at substantially the same height or vertically higher than the far point. However, it is inherent from Winthrop that the astigmatism peaks are positioned at substantially the same height or vertically higher than the far point, this being reasonably based upon the fact that the maximum astigmatism is located above the 0-180 degree line of the lens (Page 12, lines 4-29 as shown in Figure 13B) and due to the drawings showing that the maximum astigmatism is clearly located on the sides of the far region and above the mid point of the lens and therefore inherently at substantially the same height or vertically higher than the far point (Figures 13A-B). Additionally, applicant argues that the maximum astigmatism is located above the near power region but in the intermediate corridor, however, this is not stated in the reference or shown in Figure 13B.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

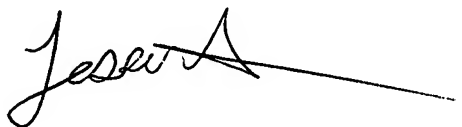
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T. Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica Stultz
Patent Examiner
AU 2873
July 13, 2005



JORDAN SCHWARTZ
PRIMARY EXAMINER